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Notice of Allowability	Application No.	Applicant(s)	
	10/658,616	KOBLISH ET AL.	
	Examiner	Art Unit	
	Peter J. Vrettakos	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8-23-05.
2. ☒ The allowed claim(s) is/are 12,14-16 and 18-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>12/12/03; 9/8/03</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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REASONS FOR ALLOWANCE

Claims 12,14-16 and 18-20 are pending.

The following is an examiner's statement of reasons for allowance:

Claims 12, 14-16, 18-20 are pending. Claims 12, 16, 18, 19, 20 are independent.

The claims describe the electrode depicted in Applicant's figures 17(d, e, f) each with a through hole (127). Swanson (6,679,269) was asserted by the Office mainly for its disclosure of an electrode (276, figure 29) with a through hole (to allow a temperature sensor - see col. 29:21-22). However, the referred through hole in Swanson runs the longitudinal length of the Swanson device depicted in figure 27. It is not of the design seen in the Applicant's figures 17(d,e,f) element 127. The Applicant in each of the independent claims has worded the description of element 127 in a manner that eludes a rejection involving Swanson (and other prior art). Each independent claim is addressed below.

Claim **12** discloses an electrode with a through hole with only two exterior openings in the distal region of the electrode. Again, Swanson discloses a through hole that runs the longitudinal length of the device in figure 27 and therefore, its referred through hole only has one exterior opening in the distal region of the electrode. (The second opening would be at the proximal end of the device.) The Applicant's amendment has aided this interpretation.

Claim **16** discloses an electrode with a through hole oriented at a **non-parallel** angle to the electrode's longitudinal axis. Again, Swanson discloses a through hole that runs the longitudinal length of the device in figure 27 and therefore, its referred through hole is oriented only at a **parallel** angle to the electrode's longitudinal axis.

Claim **18** discloses an electrode with a through hole oriented at a **perpendicular** angle to the electrode's longitudinal axis (see figure 17e, 127). Again, Swanson discloses a through hole that runs the longitudinal length of the device in figure 27 and therefore, its referred through hole is oriented only at a **parallel** angle to the electrode's longitudinal axis.

Claim **19** discloses an electrode with a through hole with only two exterior openings in the distal region of the electrode. Again, Swanson discloses a through hole that runs the longitudinal length of the device in figure 27 and therefore, its referred through hole only has one exterior opening in the distal region of the electrode. (The second opening would be at the proximal end of the device.)

Claim **20** discloses an electrode with a v-shaped through hole. Again, Swanson discloses a through hole that runs the longitudinal length of the device in figure 27 and therefore, its referred through hole is linear.

As all independent claims are not taught or suggested by Swanson (which represents the closest prior art), the application is now in condition for allowance.

Note: during an interference search, the following art was located US 2004/0267106 (Segner et al.). Segner discloses several embodiments of electrodes

with through holes (ex. 40 in figure 2). However, Segner does not disclose through holes **closed but for exterior openings**.

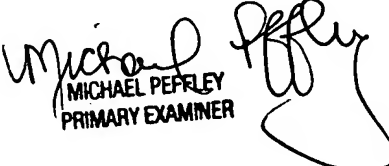
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos


MICHAEL PEFFLEY
PRIMARY EXAMINER

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October 9, 2005

A handwritten signature, possibly reading "P", is written below the date.